

21 April 2023

Dear Sir/Madam,

RE: LESS HEALTHY FOOD AND DRINK ADVERTISING – IMPLEMENTATION OF NEW STATUTORY RESTRICTIONS

PepsiCo UK welcomes the opportunity to respond to Ofcom's consultation on the regulation of less healthy food and drink.

PepsiCo is the second largest food and beverage company in the world with a broad portfolio of household brands such as; Pepsi beverages, Walkers crisps and Quaker Oats. In the UK specifically, we employ around 4,500 people across 6 manufacturing sites spanning the length and breadth of the country. All of our crisps are made from British potatoes and we support over 300 UK farmers by sourcing 300,000 tonnes of potatoes and 100,000 tonnes of milling oats annually.

For a number of years we have taken significant action across reformulation, portion control and responsible advertising and marketing. For example in 2022 Walkers announced a new ambition that by 2025, half of our snacks sales will come from products that do not classify as high in fat, salt or sugar (HFSS) (as defined by the 2004/2005 Nutrient Profiling Model) or from products sold in portions of 100 calories or less.

We also don't directly advertise any products within our portfolio to children under 16 years of age. Back in 2007 we were among the first food and drink manufacturers to voluntarily extend Ofcom's rules restricting TV advertising of products high in salt fat or sugar, to all other paid-for media channels; print, radio, internet and social media including advergames. We also took the decision to only advertise no sugar colas to shift consumer behaviour by focusing on Pepsi MAX. Today over 90% of the cola we sell in the UK is in sugar-free versions.

We strongly support the position expressed by the Food and Drink Federation (FDF), The Incorporated Society of British Advertisers (ISBA) and the Advertising Association (AA) in their respective responses to this consultation. In particular, that the ASA should be appointed as the co-regulator for the restrictions as well as the point on brand exemption (Question 1).

We believe it should be made clear in the Communications Act, BCAP and CAP codes that there is an exemption for brand advertising to prevent misinterpretation and overapplication of the rules. As stated in our response to the Government's consultation on the draft Advertising Regulations 2022 (enclosed), we are concerned that the lack of clarity around brand exemption within Ofcom's current guidance would mean that brands may be pigeon-holed as synonymous with HFSS, despite the investment that businesses like ours have made over a number of years to reformulate and develop new, non-HFSS products. While we welcome warm words from Government, this exemption has not been recorded in the legislation and we would encourage Ofcom to help bring clarity and certainty on this point.

In conclusion, we support the respective submissions made by the Trade Associations cited above and in particular, share their concerns around brand exemption. Rest assured, we recognise that we have a role to play in helping to tackle obesity and are committed to inspiring consumers to make healthier choices, a journey we have been on for over 15 years now.